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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,567	06/25/2003	Craig Bahlmann	17559-038	3338
7590	03/02/2004		EXAMINER	
Carol H. Peters Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. One Financial Center Boston, MA 02111			NGUYEN, CHAU N	
			ART UNIT	PAPER NUMBER
			2831	
DATE MAILED: 03/02/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/603,567	BAHLMANN ET AL.	
	Examiner Chau N Nguyen	Art Unit 2831	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-25 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>6/25/03</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____ .

DETAILED ACTION

Claim Objections

1. Claim 22 is objected to because of the following informalities: in claim 22, line 9, before "other" insert --each-- and line 11, change "at least one" to --the--. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35

U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-3, 9-12, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simons et al. (3,911,200).

Simons et al. discloses a tape for use within an interior defined by a cable jacket, the tape comprising two or more elongated fin-like members joined along their edges, each elongated fin-like member having width extending radially from their edges and a length extending longitudinally parallel to and along their edges such that each pair of adjacent elongated fin-like members defines therebetween a channel (Figs 7-12). Simons et al. also discloses each elongated fin-like member having a layer of dielectric material (11) and a layer of conductive material (10), the dielectric material facing each other within each channel (Fig. 12). Simons et al. does not disclose the layer of dielectric material being an inner layer such that the layers of conductive material face each other within each channel.

Although not specifically disclosed by Simons et al., it would have been obvious to one skilled in the art to modify the tape of Simons et al. to have the layers of conductive material facing each other within each channel since it has been held that merely reversing the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

The modified Simons et al. tape also discloses each elongated fin-like member being conformable such that the tape can be arranged within the cable jacket (re claim 2), each pair of adjacent elongated fin-like members defining a void sufficient to accept at least one conductor (re claim 3), a layer of bondable material (17, Figs 9 & 12) disposed directly between each of the first layer and the second layer of conductive material and the inner layer of dielectric material (re claim 9), the layer of bondable material including an adhesive coat (re claim 10), the layer of bondable material including a layer of heat fusible film (re claim 11), re claim 12, the heat fusible film being thermoplastic polymer (re claim 12), the first layer and the second layer of conductive material being aluminum (re claim 14), and the dielectric material including polyethylene (re claim 16).

5. Claims 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simons et al. in view of Arnould (6,288,340).

Simons et al. discloses the invention substantially as claimed including each elongated fin-like member being conformable such that the tape can be arranged within the cable jacket (re claim 6), each pair of adjacent elongated fin-like members defining a void sufficient to accept at least one conductor (re claim 7). Simons et al. does not disclose each elongated fin-like member being conformable

such that at least a portion of each pair of adjacent elongated fin-like members can wrap around the at least one conductor (re claims 4 & 8), nor the width of each elongated fin-like member being greater than an internal radius of the cable jacket (re claim 5).

Arnould discloses a tape having elongated fin-like members (Fig. 2), wherein each elongated fin-like member is conformable such that at least a portion of each pair of adjacent elongated fin-like members can wrap around the at least one conductor, and the width of each elongated fin-like member is greater than an internal radius of the cable jacket. It would have been obvious to one skilled in the art to apply the teaching of Arnould in the tape of Simons et al. to prevent the at least one conductor from moving out of the channel.

6. Claims 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simons et al. in view of Deitz, Sr. et al. (5,956,445).

Simons et al. discloses the invention substantially as claimed except for each layer of conductive material having a thickness of from about 0.00015 inches to about 0.006 inches, and the layer of dielectric material having a thickness of from about 0.0001 inches to about 0.006 inches. Deitz, Sr. et al. discloses a tape having a dielectric layer and a conductive layer, wherein the conductive layer has a

thickness of 0.0007 inches and the dielectric layer has a thickness of 0.0015 inches. It would have been obvious to one skilled in the art to apply the teaching of Deitz, Sr. et al. in the tape of Simons et al. to provide both shielding effect and flexibility of the tape.

7. Claims 1 and 17-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arnould.

Arnould discloses a tape for use within an interior defined by a cable jacket, the tape comprising two or more elongated fin-like members joined along their edges, each elongated fin-like member having width extending radially from their edges and a length extending longitudinally parallel to and along their edges such that each pair of adjacent elongated fin-like members defines therebetween a channel (Figs 1-2). Arnould also discloses each elongated fin-like member having a layer of dielectric material and a layer of conductive material (col. 3, lines 8-9), the dielectric material facing each other within each channel (col. 4, lines 5-6). Arnould does not disclose the layer of dielectric material being an inner layer such that the layers of conductive material face each other within each channel.

Although not specifically disclosed by Arnould, it would have been obvious to one skilled in the art to modify the tape of Arnould to have the layers of

conductive material facing each other within each channel since it has been held that merely reversing the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

The modified tape of Arnould also discloses the two or more elongated fin-like members including four elongated members to define the tape with an X-shape cross-section and four channels (re claim 17), each pair of adjacent elongated fin-like members defining a void sufficient to accept at least one conductor (re claim 18), each elongated fin-like member being conformable such that at least a portion of each pair of adjacent elongated fin-like members can wrap around the at least one conductor (re claim 19), the two or more elongated fin-like members including multiple elongated fin-like members such that the tape has multiple channels and wherein each pair of adjacent elongated fin-like members defining a void sufficient to accept at least one conductor (re claim 20), each elongated fin-like member being conformable such that at least a portion of each pair of adjacent elongated fin-like members can wrap around the at least one conductor (re claims 21-23 & 25), and the width of each elongated fin-like member being greater than an internal radius of the cable jacket (re claim 24).

Communication

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chau N Nguyen whose telephone number is 571-272-1980. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on 571-272-2800 ext 31. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Chau N Nguyen
Primary Examiner
Art Unit 2831